IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Gurdas Sngh Vs. State of Rajasthan & Anr.

S.B.CIVIL WRIT PETITION NO.6349/2006

DATE OF ORDER :: May 11, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Dron Kaushik, for the petitioner.
Mr.B.L.Tirwari, Deputy Government Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondent to appoint him on the post of Teacher Gr.III for the examination held by the RPSC as the petitioner is in service as Para Teacher since 1999.

I have heard learned counsel for the parties.

A reply to the writ petition has been filed by respondent State stating therein that identical controversy came to be

concluded by a decision of this Court at Jaipur Bench in Anand Kumar Parashar & Ors. vs. State of Raj. & Ors. (S.B.Civil Writ Petition No.7836/2006).

The controversy involved in the instant case is that in pursuance of the advertisement published by the respondent RPSC, the petitioner applied for the post of Teacher Gr.III. Respondent RPSC issued the list of candidates, who were selected category-wise and the cutoff marks as published in daily News Paper "Rajasthan Patrika" on 9.5.2006 for the general (Male) category has been shown as 134 marks. The petitioner and some other persons have secured 134 marks, though the petitioner has not been appointed, but the other persons have been provided appointment giving them preferential treatment. The date of birth of the petitioner is 1.7.1971, whereas the respondent RPSC has given preference to those persons, whose date of birth is 16.6.1970 or near about it.

It is settled law that where the post is limited and two or more persons are placed at same merit, the appointment has to be given to one, who is older in age. This controversy has been concluded by this Court at Jaipur Bench in Anand Kumar Parashar & Ors. vs. State of Raj. & Ors. (supra). Even otherwise, there may be an instance where there can be more than a

person securing equal marks but the appointment has to be given only one and for that a criterion has been adopted that whoever is older in age, the appointment has to be given to him. The respondents adopting this criterion has given preference to those persons, who are older in age than the petitioner.

In the circumstances, therefore, I do not find any merit in the writ petition. The writ petition is, therefore, dismissed. There shall be no order as to costs.

[H.R.PANWAR],J.

m.asif/-